

The Electricity Excise Tax Law, effective August 1, 1998, imposes a tax upon the privilege of using in this State electricity purchased for use or consumption and not for resale, other than by municipal corporations owning and operating a local transportation system for public service. See 35 ILCS 640/1 et seq. (This is a GIL).

July 22, 1999

Dear Mr. Xxxxx:

This letter is in response to your fax dated May 26, 1999. The nature of your fax and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your fax, you have stated and made inquiry as follows:

Per phone conversation today 5/26/99 I am requesting a write up on sale and use tax for electricity and natural gas. The Internet indicates both of these are intangible personal property. Please give us a complete definition for intangible and tangible definitions.

In general, the Illinois Retailers' Occupation and Use Tax Acts impose a tax upon the use or consumption of tangible personal property purchased at retail from a retailer, measured by the selling price or gross receipts realized. (35 ILCS 105/1 et seq. and 120/1 et seq.).

While both tax acts make clear they only tax the sale and use of tangible personal property, neither statute contains a definition for either tangible or intangible personal property. For a judicial recognition of this and an analysis of what the legislature meant when using the word tangible in referring to personal property see Farrand Coal Company v. Halpin, 10 Ill. 2d 507 (1957).

In furtherance of its administration of these tax acts the Department has promulgated regulations including 86 Ill. Adm. Code 130.120, a copy of which is enclosed. Please note that while Section 130.120(a) contains examples of intangible personal property, neither electricity nor natural gas is listed. In general, intangible property is defined as "property as has no intrinsic and marketable value, but is merely the representative or evidence of value, such as certificates of stock, bonds, promissory notes and franchises." (Black's Law Dictionary, Fifth Edition).

Please be advised there are separate statutes that tax the sale and use of electricity and natural gas in Illinois. The Electricity Excise Tax Law, effective August 1, 1998, imposes a tax upon the privilege of using in this State electricity purchased for use or consumption and not for resale, other than by municipal corporations owning and operating a local transportation system for

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public service. See 35 ILCS 640/1 et seq. See also 86 Ill. Adm. Code 511.110, enclosed.

The Gas Revenue Tax Act imposes a tax upon persons engaged in the business of distributing, supplying, furnishing, or selling natural gas to persons for use or consumption and not for resale. See 35 ILCS 615/1 et seq. See also 86 Ill. Adm. Code 470.110, enclosed.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Karl W. Betz
Associate Counsel

KWB:msk
Enc.